



9110-04-P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG-2013-0034]

RIN 1625-AA87

Security Zones; Captain of the Port Detroit

AGENCY: Coast Guard, DHS.

ACTION: Notice of Proposed Rulemaking.

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SUMMARY: The Coast Guard proposes to add a permanent security zone within the Captain of the Port Detroit Zone. This proposed security zone is intended to restrict vessels from a portion of the Detroit River in order to ensure the safety and security of participants, visitors, and public officials at the Annual North American International Auto Show (NAIAS), which is held at Cobo Hall in downtown Detroit, MI. Vessels in close proximity to the proposed security zone will be subject to increased monitoring and boarding during the enforcement of the security zone.

DATES: Comments and related material must be received by the Coast Guard on or before [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: You may submit comments identified by docket number using any one of the following methods:

(1) Federal eRulemaking Portal:

<http://www.regulations.gov>.

(2) Fax: 202-493-2251.

(3) Mail: Docket Management Facility (M-30), U.S.  
Department of Transportation, West Building Ground Floor, Room  
W12-140, 1200 New Jersey Avenue SE, Washington, DC 20590-0001.

(4) Hand delivery: Same as mail address above, between 9  
a.m. and 5 p.m., Monday through Friday, except Federal holidays.  
The telephone number is 202-366-9329.

To avoid duplication, please use only one of these four  
methods. See the "Public Participation and Request for  
Comments" portion of the SUPPLEMENTARY INFORMATION section below  
for further instructions on submitting comments.

FOR FURTHER INFORMATION CONTACT: If you have questions on this  
rule, call or e-mail LT Adrian Palomeque, Prevention Department,  
Sector Detroit, U.S. Coast Guard; telephone (313)568-9508, e-  
mail [Adrian.F.Palomeque@uscg.mil](mailto:Adrian.F.Palomeque@uscg.mil). If you have questions on  
viewing or submitting material to the docket, call Barbara  
Hairston, Program Manager, Docket Operations, telephone (202)  
366-9826.

## SUPPLEMENTARY INFORMATION:

### Table of Acronyms

DHS	Department of Homeland Security
FR	<u>Federal Register</u>
NPRM	Notice of Proposed Rulemaking

### A. Public Participation and Request for Comments

We encourage you to participate in this rulemaking by submitting comments and related materials. All comments received will be posted without change to <http://www.regulations.gov> and will include any personal information you have provided.

#### 1. Submitting comments

If you submit a comment, please include the docket number for this rulemaking (USCG-2013-0034), indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. You may submit your comments and material online at <http://www.regulations.gov>, or by fax, mail, or hand delivery, but please use only one of these means. If you submit a comment online, it will be considered received by the Coast Guard when the comment is successfully transmitted. If you fax, hand deliver, or mail your comment, it will be considered as having been received by the Coast Guard when it is received at the Docket Management Facility. We recommend that you include your name and a mailing address, an e-mail address, or a telephone

number in the body of your document so that we can contact you if we have questions regarding your submission.

To submit your comment online, go to <http://www.regulations.gov>, type the docket number [USCG-2013-0034] in the "SEARCH" box and click "SEARCH." Click on the "Submit a Comment" on the line associated with this rulemaking.

If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit comments by mail and would like to know that they reached the Facility, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period and may change the rule based on your comments.

## 2. Viewing comments and documents

To view comments, as well as documents mentioned in this preamble as being available in the docket, go to <http://www.regulations.gov>. In the "Keyword" box insert "USCG-2013-0034" and click "Search." Click on the "Open Docket Folder" link. You may also visit the Docket Management Facility in Room W12-140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. We have an agreement with the

Department of Transportation to use the Docket Management Facility.

### 3. Privacy Act

Anyone can search the electronic form of comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review a Privacy Act notice regarding our public dockets in the January 17, 2008, issue of the Federal Register (73 FR 3316).

### 4. Public meeting

We do not now plan to hold a public meeting. But you may submit a request for one, using one of the methods specified under ADDRESSES. Please explain why you believe a public meeting would be beneficial. If we determine that one would aid this rulemaking, we will hold one at a time and place announced by a later notice in the Federal Register.

## B. Regulatory History and Information

The Coast Guard has published multiple temporary final rules (TFRs) in the past in response to the NAIAS. Specifically, the Coast Guard published a TFR on January 7, 2011 (76 FR 1065), January 18, 2012 (77 FR 2453), and on December 28, 2012 (77 FR 76411). Each of these TFRs established a security zone to protect participants and spectators associated with the NAIAS. Because this event will likely recur annually, the Captain of the Port Detroit is proposing to establish a

permanent security zone and thus, alleviate the need to publish annual TFRs in the future.

### C. Basis and Purpose

For two weeks in the month of January, the Annual North American International Auto Show (NAIAS) will be held at Cobo Hall in downtown Detroit, MI. The NAIAS is the prime venue for introducing the world's most anticipated vehicles. In 2011, the NAIAS attendance for the public showing was over 735,000 people and press preview days attracted over 5,000 journalists representing 55 countries. Attendance and participation at the 2012 and 2013 NAIAS events were similar, and the attendance and participation at future NAIAS events is anticipated to be similar, too.

In years past, NAIAS has attracted numerous protesters from various organizations due to the state of the economy, worker layoffs, and the closures of automotive dealerships around the country. Because of the likely presence of high profile visitors at future NAIAS events, it is possible that protests may continue in subsequent years. Consequently, the Captain of the Port Detroit has determined that establishing a security zone in the vicinity of the NAIAS event is necessary to safeguard portions of the Detroit River from destruction, loss, or injury from sabotage or other subversive acts.

### D. Discussion of Proposed Rule

As stated above, to safeguard portions of the Detroit River during NAIAS events, the Captain of the Port Detroit proposes to establish a permanent security zone. This proposed security zone will ensure the safety of the participants in and visitors of the annual NAIAS being held at Cobo Hall in downtown Detroit, MI. The proposed security zone will be enforced for two weeks in the month of January. The proposed security zone is expected to be enforced from 8 a.m. until 11:59 p.m. daily for the duration of the event.

The proposed security zone will encompass an area of the Detroit River beginning at a point of origin on land adjacent to the west end of Joe Louis Arena at 42° 19.44' N, 083° 03.11' W; then extending offshore approximately 150 yards to 42° 19.39' N, 083° 03.07' W; then proceeding upriver approximately 2000 yards to a point at 42° 19.72' N, 083° 01.88' W; then proceeding onshore to a point on land adjacent the Tricentennial State Park at 42° 19.79' N, 083° 01.90' W; then proceeding downriver along the shoreline to connect back to the point of origin. Vessels in close proximity to the proposed security zone will be subject to increased monitoring and boarding. All geographic coordinates are North American Datum of 1983 (NAD 83).

All persons and vessels shall comply with the instructions of the Coast Guard Captain of the Port or the designated on scene representative. Entry into, transit, or anchoring within

the proposed security zone is prohibited unless authorized by the Captain of the Port Detroit or his designated on-scene representative. The Captain of the Port or his designated on-scene representative may be contacted via VHF Channel 16.

As mentioned above, the proposed security zone will be enforced for two weeks in the month of January. Each year, the Captain of the Port will notify the public by all appropriate means of the specific enforcement dates and times for the proposed security zone. Means of notification will include an annual publication of a Notice of Enforcement (NOE) in the Federal Register. Also, means of notification may include Broadcast Notice to Mariners and Local Notice to Mariners.

#### E. Regulatory Analyses

We developed this proposed rule after considering numerous statutes and executive orders related to rulemaking. Below we summarize our analyses based on a number of these statutes or executive orders.

##### 1. Regulatory Planning and Review

This proposed rule is not a significant regulatory action under section 3(f) of Executive Order 12866, Regulatory Planning and Review, as supplemented by Executive Order 13563, Improving Regulation and Regulatory Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of Executive Order 12866 or under section 1 of Executive Order 13563. The Office of Management and Budget has not reviewed it

under those Orders. It is not "significant" under the regulatory policies and procedures of the Department of Homeland Security (DHS). We conclude that this rule is not a significant regulatory action because we anticipate that it will have minimal impact on the economy, will not interfere with other agencies, will not adversely alter the budget of any grant or loan recipients, and will not raise any novel legal or policy issues. The proposed security zone created by this rule will be relatively small and enforced for relatively short time. Also, the proposed security zone is designed to minimize its impact on navigable waters. Thus, restrictions on vessel movement within that particular area are expected to be minimal. Under certain conditions, moreover, vessels may still transit through the proposed security zone when permitted by the Captain of the Port.

## 2. Impact on Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601-612), we have considered the impact of this proposed rule on small entities. The Coast Guard certifies under 5 U.S.C. 605(b) that this proposed rule will not have a significant economic impact on a substantial number of small entities.

This proposed rule will affect the following entities, some of which might be small entities: the owners or operators of vessels intending to transit or anchor in a portion of the Detroit River, Detroit, Michigan, beginning at a point of origin

on land at 42° 19.44' N, 083° 03.11' W; then extending offshore approximately 150 yards to 42° 19.39' N, 083° 03.07' W; then proceeding upriver approximately 2000 yards to a point at 42° 19.72' N, 083° 01.88' W; then proceeding onshore to a point on land at 42° 19.79' N, 083° 01.90' W; then returning to the point of origin.

This proposed security zone will not have a significant economic impact on a substantial number of small entities for the following reasons: this proposed rule will not obstruct the regular flow of commercial traffic and will allow vessel traffic to pass around the proposed security zone. In the event that this proposed security zone affects shipping, commercial vessels may request permission from the Captain of the Port Detroit to transit through the security zone. The Coast Guard will give notice to the public via a Broadcast to Mariners that the regulation is in effect.

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this rule would have a significant economic impact on it, please submit a comment (see ADDRESSES) explaining why you think it qualifies and how and to what degree this rule would economically affect it.

### 3. Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory

Enforcement Fairness Act of 1996 (Public Law 104-121), we want to assist small entities in understanding this proposed rule. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed in the FOR FURTHER INFORMATION CONTACT, above. The Coast Guard will not retaliate against small entities that question or complain about this proposed rule or any policy or action of the Coast Guard.

#### 4. Collection of Information

This proposed rule will not call for a new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520.).

#### 5. Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this proposed rule under that Order and determined that this rule does not have implications for federalism.

#### 6. Protest Activities

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to contact the person listed in the "For Further Information Contact" section to coordinate

protest activities so that your message can be received without jeopardizing the safety or security of people, places or vessels.

#### 7. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531-1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of \$100,000,000 (adjusted for inflation) or more in any one year. Though this proposed rule would not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

#### 8. Taking of Private Property

This proposed rule would not cause a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

#### 9. Civil Justice Reform

This proposed rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

#### 10. Protection of Children

We have analyzed this proposed rule under Executive Order 13045, Protection of Children from Environmental Health Risks

and Safety Risks. This rule is not an economically significant rule and would not create an environmental risk to health or risk to safety that might disproportionately affect children.

#### 11. Indian Tribal Governments

This proposed rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it would not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

#### 12. Energy Effects

This proposed rule is not a "significant energy action" under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use.

#### 13. Technical Standards

This proposed rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

#### 14. Environment

We have analyzed this proposed rule under Department of Homeland Security Management Directive 023-01 and Commandant Instruction M16475.1D, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321-4370f), and have made a preliminary determination

that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment.

This proposed rule involves the establishment of a security zone and is therefore, categorically excluded under paragraph 34(g) of Figure 2-1 of the Commandant Instruction. A preliminary environmental analysis checklist supporting this determination and a Preliminary Categorical Exclusion Determination are available in the docket where indicated under ADDRESSES. We seek any comments or information that may lead to the discovery of a significant environmental impact from this proposed rule.

#### List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and record keeping requirements, Security measures, Waterways.

For the reasons discussed in the preamble, the Coast Guard proposes to amend 33 CFR part 165 as follows:

#### PART 165- REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

1. The authority citation for part 165 continues to read as follows:

Authority: 33 U.S.C. 1231; 46 U.S.C. Chapters 701, 3306, 3703; 50 U.S.C. 191, 195; 33 CFR 1.05-1, 6.04-1, 6.04-6, and 160.5; Pub. L. 107-295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

2. Amend § 165.915 by adding paragraph (a)(3) to read as follows:

§ 165.915 Security Zones; Captain of the Port Detroit

(a) \* \* \*

(3) *North American International Auto Show, Detroit River, Detroit, MI.* All waters of the Detroit River encompassed by a

line beginning at a point of origin on land adjacent to the west end of Joe Louis Arena at 42° 19.44' N, 083° 03.11' W; then extending offshore approximately 150 yards to 42° 19.39' N, 083° 03.07' W; then proceeding upriver approximately 2000 yards to a point at 42° 19.72' N, 083° 01.88' W; then proceeding onshore to a point on land adjacent to the Tricentennial State Park at 42° 19.79' N, 083° 01.90' W; then proceeding downriver along the shoreline to connect back to the point of origin on land adjacent to the west end of the Joe Louis Arena. All geographic coordinates are North American Datum of 1983 (NAD 83). This security zone will be enforced for two weeks in the month of January with the exact dates and times to be published annually via a Notice of Enforcement.

\* \* \* \* \*

Dated: February 15, 2013

J.E. OGDEN  
Captain, U.S. Coast Guard  
Captain of the Port Detroit

[FR Doc. 2013-07284 Filed 03/28/2013 at 8:45 am; Publication

Date: 03/29/2013]